



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning & Development

Diane M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING & DEVELOPMENT**

Application Number: 3003625
Applicant Name: Ron Rochon
Address of Proposal: 5301 Shilshole Ave NW

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow an 800 square foot (sq. ft.) addition for an accessory caretaker's quarters on the roof of a warehouse to an existing marina.

Seattle Municipal Code (SMC) requires the following approvals:

Shoreline Substantial Development Permit – to allow a development in the Urban Industrial (UI) shoreline environment pursuant to SMC 23.60.020 and 23.60.092.

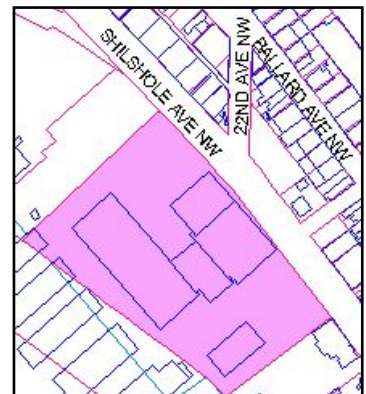
Shoreline Conditional Use Permit - to authorize a caretaker's quarters accessory to a marina in an Urban Industrial (UI) shoreline environment pursuant to WAC 173-27-160 and SMC 23.60.844.

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS
 ☐ DNS with conditions
 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Zoning Designations

Stimson Marina is an 11.09 acre site located on the Salmon Bay waterway, of which 10.47 acres are dry land, and .62 acres are under water. The site is generally flat with some vegetation along Shilshole Avenue NW and around the perimeters of the existing structures, but otherwise impervious. There are thirteen existing structures on the site or on the adjacent, leased Department of Natural Resources property. The structures are a combination of warehouse, light manufacturing, administrative office, and open or



covered boat moorage. The lot coverage of the existing structures on site is 134,005 square feet (3.08 acres). The remainder of the property is utilized for parking and vehicle circulation, and is paved with a combination of asphalt and concrete. Using the street grid as a reference, the site is southwest of the intersection of Shilshole Ave NW and 22nd Ave NW. The property is within an Urban Industrial (UI) shoreline environment and an underlying General Industrial 1 (IG1) and General Industrial 2 (IG2) with 65-ft of height limit.

Vicinity Description

The surrounding vicinity is zoned either General Industrial 1 or 2, and includes a mixture of recreational and commercial moorage, vessel repair facilities, and marine industrial facilities. The adjacent property to the west, 5300 24th Ave NW, is developed with a wood-framed restaurant structure and associated parking and site improvements. The adjacent property to the east, 5231 Shilshole Ave NW, contains a concrete batch plant with associated metal buildings and parking. Also adjacent to the east is additional DNR property being utilized as a marine terminal. Across the street to the north are: a) 5422 Shilshole Ave NW, Self-service Storage; b) 5416 Shilshole Ave NW, Cabinet Shop; c) 5309 Shilshole Ave NW, warehouse; d) Unaddressed Vacant lot; e) 2116 NW Vernon Pl, Office; f) Unaddressed Parking lot; g) Unaddressed Vacant lot; h) 5422 Shilshole Ave NW, Light Industrial.

Project Description

The proposed project involves the construction of an 800 square foot accessory caretaker's quarters and stair roof penthouse on the roof of an existing warehouse on site of an existing recreational marina property. The existing warehouse, light manufacturing, administrative office and recreation moorage uses will not be changed (see the MUP plans submitted for details).

Public Comment

Public notice of the project application was given on January 19, 2006. The required public comment period ended on February 17, 2006. DPD received no comment letters on this proposal.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. The policies and procedures of Chapter 90.58 RCW;*
- B. The regulations of this Chapter; and*
- C. The provisions of Chapter 173-27 WAC*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and Shoreline Management Act.

A. The Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outline in RCW 90.58.

B. The Regulation of Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030. Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, and meets development standards for all shoreline environment established in SMC 23.60.004 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

The site is classified as a waterfront lot (SMC 23.60.924). The shoreline designation for the site is Urban Industrial (SMC 23.60.840). A caretaker's quarter maybe conditionally permitted as use in this shoreline environment pursuant to SMC 23.60.092B and 23.60.844A.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the UI Environment is to provide for efficient use of industrial shorelines by water-dependent and water-related uses. Refer to SMC 23.60.220C.11.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permits

The proposed use is conditionally permitted in the UI environment pursuant to SMC 23.60.092 and 23.60.844 and the underlying General Industrial zoning district (SMC 23.50). As designed, the proposal conforms to the general development standards and the requirements of the underlying industrial zone and the UI overlay zone.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposed caretaker's quarters is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline area, to water quality and will not be a hazard to the public health and safety.

SMC 23.60.870 - Development Standards for the UI Environment

The development standards for the UI environment pertinent to this proposal concerns height of structures.

The height regulations for the shoreline environment require that structures are no greater than 65 feet. Under the proposal, the maximum height of the structure would be approximately 46 feet six inches.

SMC 23.60.092 – Accessory uses.

- A. Any principal use permitted in a specific shoreline environment either outright, or as a special use, conditional use or Council conditional use shall also be permitted as an accessory use outright or as a special use, conditional use or Council conditional use, respectively.

SMC 23.60.844 – Conditional uses on waterfront lots in the UI Environment

The following uses may be authorized on waterfront lots in the UI Environment by the Director, with the concurrence of DOE, as either principal or accessory uses if the criteria for conditional uses in WAC 173-27-160 are satisfied:

A. Yacht, boat or beach clubs which do not have eating and drinking establishments and recreational marinas.

Thus, Caretaker's Quarters accessory to a marina is conditionally permitted. This is the case for this proposal.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since DOE has approved the Seattle Shoreline Master Program, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing analysis, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

The proposal includes construction of an 800 square foot caretaker's quarters as an accessory use to an existing marina. The caretaker's quarter is to be located on the roof of an existing commercial building on site.

DPD has determined that a shoreline conditional use permit is needed because the caretaker's use is accessory to a use that requires conditional use approval. Any principal use permitted in a specific shoreline environment either outright, or as a special use, conditional use or Council conditional use shall also be permitted as an accessory use outright or as a special use, conditional use or Council conditional use, respectively. SMC 23.60.092A. Therefore, to the extent the recreational marina requires a shoreline conditional use, the proposed caretaker use accessory to that development also requires a shoreline conditional use.

Thus, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Conclusion

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the Urban Industrial environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, and therefore should be approved. Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal is hereby approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **GRANTED**.

ANALYSIS - SHORELINE CONDITIONAL USE

The proposed project involves the construction of an 800 square foot accessory caretaker's quarters and stair roof penthouse on the roof of an existing warehouse on site of an existing recreational marina property.

Pursuant to SMC 23.60.844, the Director, may authorize a caretaker's quarters accessory to water-dependent use in the UI Environment with the concurrence of the Department of Ecology, as a use if the criteria for conditional uses in WAC 173-27-160 are satisfied. The overall purpose of a conditional use permit is to provide for flexibility in the application of use regulations consistent with the policies of the Shoreline Management Act (RCW 90.58.020).

SMC 23.60.034 Criteria for Shoreline Conditional Use Approvals.

Uses or developments which are identified in this chapter as requiring shoreline conditional use approval, and other uses which, although not expressly mentioned in lists of permitted uses, are permitted in the underlying zones and are not prohibited in the Shoreline District, may be approved, approved with conditions or denied by the Director in specific cases based on the criteria in WAC 173-27-160, as now constituted or hereafter amended, and any additional criteria given in this chapter. Upon transmittal of the Director's approval to the Department of Ecology (DOE), the permit may be approved, approved with conditions or denied by DOE. (Ord. 118793 Section 6, 1997; Ord. 113466 Section 2(part), 1987)

WAC 173-27-160 Review Criteria for Conditional Use Permits

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

(1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

(a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

The proposed caretaker's quarters are consistent with the policies of RCW 90.58.020 and the Seattle Shoreline Master Program. Those policies favor enhancement of the shoreline environment, allowing alterations of the natural or man-made environment in limited instances when commercial developments are dependent on their location and provide an opportunity for people to enjoy the shoreline. With respect to the Salmon Bay waterway, the City's Shoreline Policies favor water-dependent recreational uses, and non-water-dependent commercial uses when providing access to the water, protecting views, and not usurping land usable for future water-dependent recreational uses¹.

The proposal does not change the existing shoreline environment for fish and would facilitate shoreline related commercial use in the overall context of a water-related commercial use. Views of the water would only be minimally affected, if at all.

(b) That the proposed use will not interfere with the normal public use of public shorelines;

The construction of the caretaker's quarters and stair roof penthouse on the roof of an existing warehouse will have no interference with the normal public use of the shorelines. In fact, the new structure should facilitate additional public use of the shorelines through commercial interactions at the site.

(c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

The construction of the caretaker's quarters and stair roof penthouse on the roof of an existing warehouse is compatible with other authorized uses within the area, which include a mix of recreational and commercial boat moorage, vessel repair facilities, and marine industrial facilities, and is consistent with uses provided for by the comprehensive plan and shoreline master program. The proposed construction will enhance the continued use of the site as a marina and complement the adjacent activities.

(d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

The construction of the caretaker's quarters and stair roof penthouse on the roof of an existing warehouse will not cause significant adverse effects to the shoreline environment. Based on the plans submitted, there should be an improvement to the shoreline environment resulting from the reconstruction. A structure constructed to the current Stormwater, Grading and Drainage Control Code should have a positive impact on fish and juvenile salmonids that are known to travel along the shoreline at Lake Union.

(e) That the public interest suffers no substantial detrimental effect.

¹ Water-dependent uses are not required to provide public access on private lot pursuant to SMC 23.60.638.

The public interest will not suffer substantial detrimental effects from the caretaker's quarters and stair roof penthouse on the roof of an existing warehouse. The construction will have positive effects on the built environment and is expected to improve security to the users of the site.

(2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

In reviewing the proposal and visiting the site to examine development in the area, it does not appear that granting the shoreline conditional use would produce a substantial adverse effect on the shoreline environment. There is some evidence of water-dependent development/uses along Shilshole Ave NW of having accessory/secondary water-related uses along this segment of the shoreline. There is no evidence that a cumulative impact from these water-related uses exists or would be created by the addition of this water-related use.

(3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.

SMC 23.60.944 of the master program classifies the existing "Marine retail sales and service" as a "water-dependant use." The proposal as noted above and illustrated in the MUP plans—appears to demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.

(4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

The master program does not prohibit a caretaker's quarters accessory to a marina in an Urban Industrial (UI) shoreline environment. Refer to SMC 23.60.848B. Commercial Uses, 23.60.926 "Marine retail sales and service" and 23.60.944 "Water-dependent use".

Conclusion

SMC Section 23.60.064 E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

Thus, as shown in the applicant's development plans, the Director has determined that the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved. Further, the goals of the Shoreline Master Program would be better served by authorizing the construction of a caretaker's quarters accessory to a marina (see the Proposed Project Description above).

DECISION – SHORELINE CONDITIONAL USE

The Shoreline Conditional Use application is **APPROVED** per the MUP plans.

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

1. The owner(s) and/or responsible party (ies) shall take care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction. Appropriate equipment and material for hazardous material cleanup must be kept at the site.

CONDITIONS – SHORELINE CONDITIONAL USE

None.

Signature: (signature on file)
Colin R. Vasquez, Senior Land Use Planner
Department of Planning and Development

Date: May 29, 2006